



General Assembly

January Session, 2015

Raised Bill No. 6804

LCO No. 3088



Referred to Committee on BANKING

Introduced by:
(BA)

***AN ACT CONCERNING TECHNICAL REVISIONS TO CONSUMER
COLLECTION AGENCY STATUTES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (b) of section 36a-59 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

4 (b) The commissioner may enter into cooperative, coordinating or
5 information-sharing agreements with any other state or federal
6 supervisory agency or any organization affiliated with or representing
7 such supervisory agency with respect to the examination, examination
8 fees or other supervision of any person subject to the provisions of
9 sections 36a-485 to [36a-810] 36a-812, inclusive. Any such agreement
10 may include provisions concerning the assessment or sharing of fees
11 for such examination or supervision.

12 Sec. 2. Subparagraph (A) of subdivision (4) of subsection (a) of
13 section 36a-412 of the general statutes is repealed and the following is
14 substituted in lieu thereof (*Effective from passage*):

15 (4) (A) The laws of this state, including laws regarding (i)
16 community reinvestment pursuant to sections 36a-30 to 36a-33,
17 inclusive; (ii) consumer protection pursuant to sections 36a-41 to 36a-
18 45, inclusive, 36a-290 to 36a-304, inclusive, 36a-306, 36a-307, 36a-315 to
19 36a-323, inclusive, 36a-645 to 36a-647, inclusive, 36a-690, 36a-695 to
20 36a-700, inclusive, 36a-705 to 36a-707, inclusive, 36a-715 to 36a-719l,
21 inclusive, 36a-725, 36a-726, 36a-755 to 36a-759, inclusive, 36a-770 to
22 36a-788, inclusive, and 36a-800 to [36a-810] 36a-812, inclusive, as
23 amended by this act; (iii) fair lending pursuant to sections 36a-737, 36a-
24 740 and 36a-741; and (iv) establishment of interstate branches pursuant
25 to section 36a-145 shall apply to any branch in this state of an out-of-
26 state bank, other than a federally chartered out-of-state bank, to the
27 same extent as such laws apply to a branch in this state of an out-of-
28 state national banking association.

29 Sec. 3. Section 36a-800 of the general statutes is repealed and the
30 following is substituted in lieu thereof (*Effective from passage*):

31 As used in sections 36a-800 to [36a-810] 36a-812, inclusive, as
32 amended by this act, unless the context otherwise requires:

33 (1) "Branch office" means a location other than the main office at
34 which a licensee or any person on behalf of a licensee acts as a
35 consumer collection agency;

36 (2) "Consumer collection agency" means any person (A) engaged as
37 a third party in the business of collecting or receiving for payment for
38 others of any account, bill or other indebtedness from a consumer
39 debtor, (B) engaged directly or indirectly in the business of collecting
40 any account, bill or other indebtedness from a consumer debtor for
41 such person's own account if the indebtedness was acquired from
42 another person and if the indebtedness was either delinquent or in
43 default at the time it was acquired, or (C) engaged in the business of
44 collecting or receiving for payment property tax from a property tax
45 debtor on behalf of a municipality, including any person who, by any

46 device, subterfuge or pretense, makes a pretended purchase or takes a
47 pretended assignment of accounts from any other person or
48 municipality of such indebtedness for the purpose of evading the
49 provisions of sections 36a-800 to [36a-810] 36a-812, inclusive, as
50 amended by this act. It includes persons who furnish collection
51 systems carrying a name which simulates the name of a consumer
52 collection agency and who supply forms or form letters to be used by
53 the creditor, even though such forms direct the consumer debtor or
54 property tax debtor to make payments directly to the creditor rather
55 than to such fictitious agency. "Consumer collection agency" further
56 includes any person who, in attempting to collect or in collecting such
57 person's own accounts or claims from a consumer debtor, uses a
58 fictitious name or any name other than such person's own name which
59 would indicate to the consumer debtor that a third person is collecting
60 or attempting to collect such account or claim. "Consumer collection
61 agency" does not include (i) an individual employed on the staff of a
62 licensed consumer collection agency, or by a creditor who is exempt
63 from licensing, when attempting to collect on behalf of such consumer
64 collection agency, (ii) persons not primarily engaged in the collection
65 of debts from consumer debtors who receive funds in escrow for
66 subsequent distribution to others, including, but not limited to, real
67 estate brokers and lenders holding funds of borrowers for payment of
68 taxes or insurance, (iii) any public officer or a person acting under the
69 order of any court, (iv) any member of the bar of this state, (v) a person
70 who services loans or accounts for the owners thereof when the
71 arrangement includes, in addition to requesting payment from
72 delinquent consumer debtors, the providing of other services such as
73 receipt of payment, accounting, record-keeping, data processing
74 services and remitting, for loans or accounts which are current as well
75 as those which are delinquent, (vi) a bank or out-of-state bank, as
76 defined in section 36a-2, and (vii) a subsidiary or affiliate of a bank or
77 out-of-state bank, provided such affiliate or subsidiary is not primarily
78 engaged in the business of purchasing and collecting upon delinquent
79 debt, other than delinquent debt secured by real property. Any person

80 not included in the definition contained in this subdivision is, for
81 purposes of sections 36a-645 to 36a-647, inclusive, a "creditor", as
82 defined in section 36a-645;

83 (3) "Consumer debtor" means any natural person, not an
84 organization, who has incurred indebtedness or owes a debt for
85 personal, family or household purposes, including current or past due
86 child support, or who has incurred indebtedness or owes a debt to a
87 municipality due to a levy by such municipality of a personal property
88 tax;

89 (4) "Creditor" means a person, including a municipality, that retains,
90 hires, or engages the services of a consumer collection agency;

91 (5) "Main office" means the main address designated on the
92 application;

93 (6) "Municipality" means any town, city or borough, consolidated
94 town and city, consolidated town and borough, district as defined in
95 section 7-324 or municipal special services district established under
96 chapter 105a;

97 (7) "Organization" means a corporation, partnership, association,
98 trust or any other legal entity or an individual operating under a trade
99 name or a name having appended to it a commercial, occupational or
100 professional designation;

101 (8) "Property tax" has the meaning given to the term in section 7-560;

102 (9) "Property tax debtor" means any natural person or organization
103 who has incurred indebtedness or owes a debt to a municipality due to
104 a levy by such municipality of a property tax.

105 Sec. 4. Section 36a-801 of the general statutes is repealed and the
106 following is substituted in lieu thereof (*Effective from passage*):

107 (a) No person shall act within this state as a consumer collection

108 agency unless such person has first obtained a consumer collection
109 agency license for such person's main office and each branch office
110 where such person's business is conducted. A consumer collection
111 agency is acting within this state if it (1) has its place of business
112 located within this state; (2) has its place of business located outside
113 this state and (A) collects from consumer debtors or property tax
114 debtors who reside within this state for creditors who are located
115 within this state, or (B) collects from consumer debtors or property tax
116 debtors who reside within this state for such consumer collection
117 agency's own account; (3) has its place of business located outside this
118 state and regularly collects from consumer debtors or property tax
119 debtors who reside within this state for creditors who are located
120 outside this state; or (4) has its place of business located outside this
121 state and is engaged in the business of collecting child support for
122 creditors located within this state from consumer debtors who are
123 located outside this state.

124 (b) Any person desiring to act within this state as a consumer
125 collection agency shall make a written application to the commissioner
126 for such license in such form as the commissioner prescribes. Such
127 application shall be accompanied by (1) a financial statement prepared
128 by a certified public accountant or a public accountant, the accuracy of
129 which is sworn to under oath before a notary public by the proprietor,
130 a general partner or a corporate officer or a member duly authorized to
131 execute such documents, (2) (A) the history of criminal convictions of
132 the (i) applicant; (ii) partners, if the applicant is a partnership; (iii)
133 members, if the applicant is a limited liability company or association;
134 or (iv) officers, directors and principal employees, if the applicant is a
135 corporation, and (B) sufficient information pertaining to the history of
136 criminal convictions of such applicant, partners, members, officers,
137 directors and principal employees as the commissioner deems
138 necessary to make the findings under subsection (c) of this section, (3)
139 a license fee of eight hundred dollars, or in the case of an initial
140 application that is filed not earlier than one year before the date such

141 license will expire, a license fee of four hundred dollars, and (4) an
142 investigation fee of one hundred dollars. The commissioner shall cause
143 to be made such inquiry and examination as to the qualifications of
144 each such applicant or any partner, member, officer, director or
145 principal employee of the applicant as the commissioner deems
146 necessary. The commissioner, in accordance with section 29-17a, may
147 conduct a state and national criminal history records check of the
148 applicant and of each partner, member, officer, director and principal
149 employee of such applicant. Each applicant shall furnish satisfactory
150 evidence to the commissioner that the applicant is a person of good
151 moral character and is financially responsible.

152 (c) If the commissioner finds, upon the filing of an application for a
153 consumer collection agency, that (1) the financial responsibility,
154 character, reputation, integrity and general fitness of the applicant and
155 the partners of such applicant if the applicant is a partnership, of the
156 members if the applicant is a limited liability company or association,
157 and of the officers, directors and principal employees if the applicant is
158 a corporation, are such to warrant belief that the business will be
159 operated soundly and efficiently, in the public interest and consistent
160 with the purposes of sections 36a-800 to [36a-810] 36a-812, inclusive, as
161 amended by this act, and (2) the applicant is solvent and no
162 proceeding in bankruptcy, receivership or assignment for the benefit of
163 creditors has been commenced against the applicant, the commissioner
164 may, upon such finding, issue the applicant a consumer collection
165 agency license. If the commissioner fails to make such findings, the
166 commissioner shall not issue a license and shall notify the applicant of
167 the reasons for such denial. The commissioner may deny an
168 application if the commissioner finds that the applicant or any partner,
169 member, officer, director or principal employee of such applicant has
170 been convicted of any misdemeanor involving any aspect of the
171 consumer collection agency business, or any felony. Any denial of an
172 application by the commissioner shall, when applicable, be subject to
173 the provisions of section 46a-80. Any such license issued by the

174 commissioner shall expire at the close of business on September
175 thirtieth of the odd-numbered year following its issuance, unless such
176 license is renewed. The commissioner may renew such application, in
177 the commissioner's discretion, upon filing of a proper renewal
178 application accompanied by a license fee of eight hundred dollars, and
179 satisfactory proof that such applicant at that time possesses the
180 required qualifications for the license. The commissioner may deny a
181 renewal application if the commissioner finds that the applicant has
182 been convicted of any misdemeanor involving any aspect of the
183 consumer collection agency business, or any felony. Any denial of an
184 application by the commissioner shall, when applicable, be subject to
185 the provisions of section 46a-80. Such renewal application shall be filed
186 with the commissioner on or before September first of the year in
187 which the license expires. Any renewal application filed with the
188 commissioner after September first shall be accompanied by a one-
189 hundred-dollar late fee and any such filing shall be deemed to be
190 timely and sufficient for purposes of subsection (b) of section 4-182.
191 Whenever an application for a license, other than a renewal
192 application, is filed under sections 36a-800 to [36a-810] 36a-812,
193 inclusive, as amended by this act, by any person who was a licensee
194 under said sections 36a-800 to [36a-810] 36a-812, inclusive, and whose
195 license expired less than sixty days prior to the date such application
196 was filed, such application shall be accompanied by a one-hundred-
197 dollar processing fee in addition to the application fee.

198 (d) To further the enforcement of this section and to determine the
199 eligibility of any person holding a license, the commissioner may, as
200 often as the commissioner deems necessary, examine the licensee's
201 books and records, and may, at any time, require the licensee to submit
202 such a financial statement for the examination of the commissioner, so
203 that the commissioner may determine whether the licensee is
204 financially responsible to carry on a consumer collection agency
205 business within the intents and purposes of sections 36a-800 to [36a-
206 810] 36a-812, inclusive, as amended by this act. Any financial

207 statement submitted by a licensee shall be confidential and shall not be
208 a public record unless introduced in evidence at a hearing conducted
209 by the commissioner.

210 (e) The applicant or licensee shall notify the commissioner, in
211 writing, of any change in the information provided in its initial
212 application for a license or most recent renewal application for such
213 license, as applicable, not later than ten business days after the
214 occurrence of the event that results in such information becoming
215 inaccurate.

216 (f) The commissioner may deem an application for a license to act as
217 a consumer collection agency abandoned if the applicant fails to
218 respond to any request for information required under sections 36a-
219 801 to [36a-810] 36a-812, inclusive, as amended by this act, or any
220 regulations adopted pursuant to said sections 36a-801 to [36a-810] 36a-
221 812, inclusive. The commissioner shall notify the applicant, in writing,
222 that if the applicant fails to submit such information not later than
223 sixty days after the date on which such request for information was
224 made, the application shall be deemed abandoned. An application
225 filing fee paid prior to the date an application is deemed abandoned
226 pursuant to this subsection shall not be refunded. Abandonment of an
227 application pursuant to this subsection shall not preclude the applicant
228 from submitting a new application for a license under sections 36a-801
229 to [36a-810] 36a-812, inclusive, as amended by this act.

230 (g) If the commissioner determines that a check filed with the
231 commissioner to pay a fee under subsection (b) of this section has been
232 dishonored, the commissioner shall automatically suspend the license
233 or a renewal license that has been issued but is not yet effective. The
234 commissioner shall give the licensee notice of the automatic
235 suspension pending proceedings for revocation or refusal to renew
236 and an opportunity for a hearing on such actions in accordance with
237 section 36a-51.

238 (h) No abatement of the license fee shall be made if the license is
239 surrendered, revoked or suspended prior to the expiration of the
240 period for which it was issued. All fees required by this section shall be
241 nonrefundable.

242 (i) No person licensed to act within this state as a consumer
243 collection agency shall do so under any other name or at any other
244 place of business than that named in the license. Any change of
245 location of a place of business of a licensee shall require prior written
246 notice to the commissioner. Not more than one place of business shall
247 be maintained under the same license but the commissioner may issue
248 more than one license to the same licensee upon compliance with the
249 provisions of sections 36a-800 to [36a-810] 36a-812, inclusive, as
250 amended by this act, as to each new licensee. A license shall not be
251 transferable or assignable. Any licensee holding, applying for, or
252 seeking renewal of more than one license may, at its option, file the
253 bond required under section 36a-802 separately for each place of
254 business licensed, or to be licensed, or a single bond, naming each
255 place of business, in an amount equal to twenty-five thousand dollars
256 for each place of business.

257 Sec. 5. Section 36a-804 of the general statutes is repealed and the
258 following is substituted in lieu thereof (*Effective from passage*):

259 (a) The commissioner may suspend, revoke or refuse to renew any
260 license or take any other action, in accordance with the provisions of
261 section 36a-51, for any reason which would be sufficient grounds for
262 the commissioner to deny an application for a license under sections
263 36a-800 to [36a-810] 36a-812, inclusive, as amended by this act, or if the
264 commissioner finds that the licensee or any proprietor, director, officer,
265 member, partner, shareholder, trustee, employee or agent of such
266 licensee has done any of the following: (1) Made any material
267 misstatement in the application; (2) committed any fraud or
268 misrepresentation or misappropriated funds; or (3) violated any of the
269 provisions of sections 36a-800 to [36a-810] 36a-812, inclusive, as

270 amended by this act, or of any regulations adopted pursuant thereto,
271 or any other law or regulation applicable to the conduct of its business.

272 (b) Whenever it appears to the commissioner that any person has
273 violated, is violating or is about to violate any of the provisions of
274 sections 36a-800 to [36a-810] 36a-812, inclusive, as amended by this act,
275 or any regulation adopted pursuant thereto, or the licensee or any
276 proprietor, director, officer, member, partner, shareholder, trustee,
277 employee or agent of such licensee has committed any fraud, made
278 any misrepresentation or misappropriated funds, the commissioner
279 may take action against such person or licensee in accordance with
280 sections 36a-50 and 36a-52.

281 Sec. 6. Subsection (a) of section 36a-805 of the general statutes is
282 repealed and the following is substituted in lieu thereof (*Effective from*
283 *passage*):

284 (a) No consumer collection agency shall: (1) Furnish legal advice or
285 perform legal services or represent that it is competent to do so, or
286 institute judicial proceedings on behalf of others; (2) communicate with
287 consumer debtors or property tax debtors in the name of an attorney
288 or upon the stationery of an attorney, or prepare any forms or
289 instruments which only attorneys are authorized to prepare; (3) receive
290 assignments as a third party of claims for the purpose of collection or
291 institute suit thereon in any court; (4) assume authority on behalf of a
292 creditor to employ or terminate the services of an attorney unless such
293 creditor has authorized such agency in writing to act as such creditor's
294 agent in the selection of an attorney to collect the creditor's accounts;
295 (5) demand or obtain in any manner a share of the proper
296 compensation for services performed by an attorney in collecting a
297 claim, whether or not such agency has previously attempted collection
298 thereof; (6) solicit claims for collection under an ambiguous or
299 deceptive contract; (7) refuse to return any claim or claims upon
300 written request of the creditor, claimant or forwarder, which claims are
301 not in the process of collection after the tender of such amounts, if any,

302 as may be due and owing to the agency; (8) advertise or threaten to
303 advertise for sale any claim as a means of forcing payment thereof,
304 unless such agency is acting as the assignee for the benefit of creditors;
305 (9) refuse or fail to account for and remit to its clients all money
306 collected which is not in dispute within sixty days from the last day of
307 the month in which said money is collected; (10) refuse or intentionally
308 fail to return to the creditor all valuable papers deposited with a claim
309 when such claim is returned; (11) refuse or fail to furnish at intervals of
310 not less than ninety days, upon the written request of the creditor,
311 claimant or forwarder, a written report upon claims received from
312 such creditor, claimant or forwarder; (12) add any post charge-off
313 charge or fee for cost of collection, unless such cost is a court cost, to
314 the amount of any claim which it receives for collection or knowingly
315 accept for collection any claim to which any such charge or fee has
316 already been added to the amount of the claim unless (A) the
317 consumer debtor is legally liable for such charge or fee as determined
318 by the contract or other evidence of an agreement between the
319 consumer debtor and creditor, a copy of which shall be obtained by or
320 available to the consumer collection agency from the creditor and
321 maintained as part of the records of the consumer collection agency or
322 the creditor, or both, and (B) the total charge or fee for cost of collection
323 does not exceed fifteen per cent of the total amount actually collected
324 and accepted as payment in full satisfaction of the debt; (13) use or
325 attempt to use or make reference to the term "bonded by the state of
326 Connecticut", "bonded" or "bonded collection agency" or any
327 combination of such terms or words, except that the word "bonded"
328 may be used on the stationery of any such agency in type not larger
329 than twelve-point; (14) when the debt is beyond the statute of
330 limitations, fail to provide the following disclosure in type not less
331 than ten-point informing the consumer debtor in its initial
332 communication with such consumer debtor that (A) when collecting
333 on debt that is not past the date for obsolescence provided for in
334 Section 605(a) of the Fair Credit Reporting Act, 15 USC 1681c: "The law
335 limits how long you can be sued on a debt. Because of the age of your

336 debt, (INSERT OWNER NAME) will not sue you for it. If you do not
 337 pay the debt, (INSERT OWNER NAME) may report or continue to
 338 report it to the credit reporting agencies as unpaid"; and (B) when
 339 collecting on debt that is past the date for obsolescence provided for in
 340 Section 605(a) of the Fair Credit Reporting Act, 15 USC 1681c: "The law
 341 limits how long you can be sued on a debt. Because of the age of your
 342 debt, (INSERT OWNER NAME) will not sue you for it and (INSERT
 343 OWNER NAME) will not report it to any credit reporting agencies."; or
 344 (15) engage in any activities prohibited by sections 36a-800 to [36a-810]
 345 36a-812, inclusive, as amended by this act.

346 Sec. 7. Section 36a-810 of the general statutes is repealed and the
 347 following is substituted in lieu thereof (*Effective from passage*):

348 Any person who operates a consumer collection agency without a
 349 license as required by sections 36a-800 to [36a-810] 36a-812, inclusive,
 350 as amended by this act, shall be fined not more than one thousand
 351 dollars or imprisoned not more than one year, or both. Any person
 352 who violates any other provision of said sections shall be fined not
 353 more than five hundred dollars, or imprisoned not more than six
 354 months, or both. The state's attorney or assistant state's attorney for the
 355 superior court having jurisdiction in each town shall diligently inquire
 356 and make due complaint to the court of all violations of said sections
 357 which come to his knowledge, by investigation of report.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	36a-59(b)
Sec. 2	<i>from passage</i>	36a-412(a)(4)(A)
Sec. 3	<i>from passage</i>	36a-800
Sec. 4	<i>from passage</i>	36a-801
Sec. 5	<i>from passage</i>	36a-804
Sec. 6	<i>from passage</i>	36a-805(a)
Sec. 7	<i>from passage</i>	36a-810

Statement of Purpose:

To make technical changes to incorporate recently enacted laws.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]